

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Roberta Moore, Planner I

SUBJECT: Variance, V 6-2-03, Patrice Marker, 1554 East Harmony Lakes
Circle/Generally located at the northeast corner of East Harmony
Lakes Circle and SW 15 Place

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM: V 6-2-03, Patrice Marker, 1554 East Harmony Lakes Circle (PRD-5)

REPORT IN BRIEF:

This is an after the fact variance application for the deck and gazebo which currently exist. These have been constructed without a building permit. The required setback is five (5) feet and approval of the variance is needed to legally permit the structures.

The variance application is to reduce the required 5 foot rear setback to allow the deck and gazebo to be 2.6 feet to the property line.

PREVIOUS ACTIONS: None

CONCURRENCES: At the August 13, 2003, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Ms. Turin, to approve. (Motion carried 4-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Planning Report, Justification, Survey, Land Use Map, Zoning and Aerial Map

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division Staff
Report and Recommendation

Applicant Information

Owner/Agent:

Name: Patrice Marker
Address: 1554 East Harmony Lakes Circle
City: Davie, Florida 33324
Phone: (954) 577-7919

Background Information

Date of Notification: August 1, 2003 **Number of Notifications:** 299 at 1,000 feet

Application History: No deferrals have been requested.

Application Request: Variance

FROM: Section 12-81(A) of the Land Development Code which requires a rear setback of a PRD-5, Planned Residential District, to be a minimum of 5 feet. **TO:** Reduce the minimum rear setback for an existing deck and gazebo to ~~2.7~~ 2.6 feet.

Address/Location: 1554 East Harmony Lakes Circle/Generally located at the northeast corner of East Harmony Lakes Circle and SW 15 Place.

Future Land Use Plan Designation: Residential 5 DU/AC

Zoning: PRD - 5, Planned Residential District

Existing/Proposed Use: Single family home

Parcel Size: .1375 acres (5,989.4 square feet)

Surrounding Uses:

North: Residential single family home
South: Residential single family home
East: Lake
West: Residential single family home

Surrounding Land

Use Plan Designation:

Residential 5 DU/AC
Residential 5 DU/AC
Residential 5 DU/AC
Residential 5 DU/AC

Surrounding Zoning:

North: PRD – 5, Planned Residential District
South: PRD – 5, Planned Residential District
East: PRD – 5, Planned Residential District
West: PRD – 5, Planned Residential District

Zoning History

Previous Requests on same property: None

Application Details

The deck and gazebo currently exist and have been constructed without a building permit. There is currently no Code Enforcement Case pending this application. The variance application is to allow the deck and the gazebo to encroach into the required 5 foot rear setback.

Applicable Codes and Ordinances

Section 12-81(A) of the Land Development Code which requires a 5 foot rear setback in a PRD – 5, Planned Residential District.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 4. This planning area is bordered by State Road 84 on its north, University Drive on its east, Flamingo Road on its west, and an irregular border on its south that corresponds to Nova Drive and, SW 14 Street and the Village of Harmony Lakes development. A portion of the University Drive and State Road 84 commercial corridors are included in this area, as are several planned residential communities typically developed at five dwellings per acre, but in some cases up to ten, including Arrowhead Golf Course and Country Club, Village of Harmony Lakes, Westridge, the Ridgeview Lakes developments, Scarborough, Village at Pine Lakes, and the Pine Island Ridge, Park City and Rexmere Village developments, located within an unincorporated area between Nob Hill Road and Pine Island Road.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 100.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-7:* Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

Staff Analysis

In the PRD - 5, Planned Residential District a 5 foot rear setback is required. The home currently has a deck and gazebo built. This variance is to allow the existing deck and gazebo to remain. The subject lot is located at the northeast corner of East Harmony Lakes Circle and SW 15 Place within the Village at Harmony Lakes development. The subject lot is located adjacent to a lake maintenance easement and open space. To the north, south and west of the subject site are single family residences and to the east is a lake. The location of the deck and gazebo do not directly abut another residential structure. Since the deck and gazebo are located on the zero lot line side of the residence they are permitted to have a zero side setback.

When the applicant purchased the residence on May 3, 2003, the deck and gazebo were existing. Once the property owner discovered the deck and gazebo were constructed without proper building permits the process of obtaining them began. At the building permit stage it was determined that the deck and gazebo did not meet the required rear setbacks.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are special circumstances and conditions applying to the land and building for which the variances are sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district; any circumstances or conditions are not such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought; the alleged hardship is self-created by any person having an interest in the property;

According to the applicant, when she purchased the property the deck and gazebo were existing.

- (b) The granting of the variances are not necessary for the reasonable use of the land or building;

The applicant can achieve reasonable use of the land without a variance, and as such the variance is not the minimum needed. A variance would be required for the applicant to maintain the existing deck and gazebo as it does not meet current code requirements.

- (c) Granting of the requested variances are not in harmony with the general purpose and intent of this chapter, and are not injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the rear setback to be reduced to ~~2.7~~ 2.6 feet will not be detrimental to the neighborhood since it is located in the rear of the property and there is a 20' Lake Maintenance Easement and a lake adjacent to the east.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board

Planning and Zoning Board Recommendation: At the August 13, 2003, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Ms. Turin, to approve. (Motion carried 4-0).

Exhibits

1. Justification
2. Survey
3. Letters from adjacent property owners and Harmony Lakes Estates Homeowners Association
4. Land Use Map
5. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

Narrative/Justification
Marker Variance Application

I am the Applicant, Patrice Marker, and live at 1554 E. Harmony Lakes Circle in Davie. I bought this house May 3, 2002. The house is on a lake and has a preexisting deck and gazebo with spa in the back yard. This very attractive improvement is one of the reasons I decided to buy this house. I soon discovered that I needed to apply for permits, as the former owner did not obtain them. In the process of the permitting process, I discovered that the rear setback of the deck and gazebo are not in compliance with the Code section 12-33 (6) (c) which requires a rear setback of 5 feet. The deck and gazebo encroach into the setback 2.5 feet. The house is located in the PRD5 Zoning District. I am requesting a variance to permit the encroachment into the rear setback.

The granting of the requested variance will adhere to the variance review criteria set forth in Code Section 27-804, as I will demonstrate: (A) that peculiar circumstances and conditions exist that are not shared by other properties in the same zoning district; (B) that these circumstances are not self-created; (C) that to proceed otherwise would deny me reasonable use of my property; (D) that the proposed variance is the minimum variance that will accomplish my stated purpose; and (E) that allowing the requested variance will be in harmony with the general purpose and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- A. Unique and Special Circumstances or Conditions Exist that Are Not shared by Other Properties in the Same Zoning District.

Special circumstances exist in this case that warrants the granting of the requested variance. There are no "backyard" neighbors. There is a 38-foot wide lake slope and a lake lying beyond the property line. The variance is the direct result of the fact that the structure preexists at its present location.

- B. The Circumstances Leading to the Request for the Variance are not Self-created.

This situation was not self-created by me. It existed when I bought the property. Fixing the problem by cutting off the deck is an unreasonable solution considering cost, disruption to existing neighboring properties, and the result would not be visually noticeable.

- C. Strict Application of the Code Would Deprive Applicant of Reasonable Use of its Property.

Strict application of the Code would deprive me of reasonable use and enjoyment of my property, as there is no other available location for the existing deck and gazebo.

D. The Variance Requested is the Minimum Required to Accomplish the Reasonable Use of the Property.

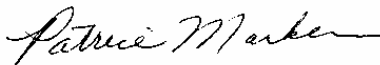
This request is the minimum variance requested. All other regulations will be satisfied.

E. Granting the Variance Will Be in Harmony with the General Intent and Purpose of the Code and Will Not be Injurious to the Neighborhood or Otherwise Detrimental to the Public Welfare.

Approval of the requested variance is in harmony with the general intent and purpose of the Code. The Code speaks to Davie's desire to implement policies that are efficient, effective, and equitable with respect for the rights of property owners and the consideration of the interests of the Town's citizens. The variance requested is entirely consistent with the Code's general intent and purpose, as:

- **It will preserve the overall appearance of the neighborhood and maintain the architectural integrity of my home.**
- **I will comply with all other Code requirements.**
- **I do not interfere with my neighbors' view of the lake abutting my property, and have obtained letters of support from the Harmony Lakes Estates Homeowners Association and the Nystrom and Stark families who are my neighbors.**

Sincerely,



Patrice Marker

BASE FLOOD ELEVATION OR DEPTH, 6

A detailed street map of the Lakeview area in Seattle, Washington. The map shows major streets including Lakeview Ave, Lakeview Dr, Lakeview Pl, Lakeview St, and Lakeview Way. It also shows the locations of Lakeview High School, Lakeview Middle School, and Lakeview Elementary School. The map is oriented with North at the top.

REVISION SCHEDULE:

DECK AREA DETAIL 1"=10'
SEE SHEET 2 FOR V-SECTION

SURVIVAL CERTIFICATE

I hereby certify that this Boundary Survey meets the Minimum Technical Standards for Surveys as set forth by the Florida Board of Surveyors and Mapmakers in Chapter 61G17-6 of the Florida Administrative Code. Pursuant to Section 472.027 of the Florida Statutes, I am signing this Certificate.

 Andrew Byron Proffitt, Surveyor and Mapper
 Florida Registration Number 5639

Date 9-11-16

NOT VALID WITHOUT THE SIGNATURE AND ORIGINALLY RAISED SEAL OF THE LICENSED SURVEYOR AND MAPMAKER SHOWN ABOVE

NOTES

This survey is based on record information as provided by client. No specific mention in the Public Record has been made by this office that the information was obtained from a confidential source. Undergirded names and bolded acronym as specifically shown in the original report.

From left to right, descending:

In some cases specific representations have been suggested for clarity. Demographic data have no incidence over stated positions. All citations shown are field numbers and correspond to record information used. Specifically named offense:

Covers shown as "TET" - Confirmed with a cap marked L0 (Lousiana Business) No. 8739

Elaborations are based upon Material Geologic Vertical Datum 1929


Exclusions shown if applicable are based on Benchmarks.

- Rule of Commercement
- Point of Reversal Curvature
- Point of Tangency
- Privacy Wall
- Right-of-Way
- Salt South River
- Utility Easement
- Utility Pole
- Valley Gutter
- Winless Corner
- Water Meter
- Wing Wall

ound Iron Rod 3/8"
ound Nail
ound
ound Power & Light
apital Description
nterline of Party Line
measured
nterline Eastment
er Head Cable
Social Records Book
nt
roperty Line
ment of Curvature
nt of Compound Curvature

FIR	Adjacent Line
FN	Adjacent Unwrap IL
FND	Center Line
FPL	Routing Corner
L	Internal Conc (Porch)
Q	Internal Conc From Field Data
PW	Concrete
M	IL From Record Data
ATE	IL From TV Riser
OHC	Internal Angle (Detail)
ORB	Internal and Book
p	Language Ensemble
IL	Internal
PC	Use of Water
PCC	
DV	

1


 LOYN
BLOCK
= COMEES
S = SHEO

ABBREVIATIONS
 (NR) = Non-Rac
 (R) = Racer

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FORT LAUDERDALE, FLORIDA 33309
(954) 776-6766 • FAX: (954) 776-4666

Ron & Irma Stark
1564 E. Harmony Lakes Circle
Davie, FL 33324

627-, 2003

Town Council Members
Town Hall
6591 Orange Drive
Davie, FL 33314

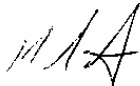
*Re: Variance Application Relating to Pre-existing Deck and Gazebo at the Marker
Residence (located at 1554 E. Harmony Lakes Circle, Lot 195 of the Village at Harmony
Lakes SFH - Property ID 5041 18 10 1950)*

Dear Council Members:

We reside at 1564 E. Harmony Lakes Circle and next door to the Marker residence. Ms. Marker purchased the home next door, which has a deck and gazebo, installed by the prior owner. The gazebo and deck encroach slightly onto the rear setback. We have no objection to this variance application and support her efforts in this matter.

Sincerely,

Ron Stark



Irma Stark



Ed and Jean Nystrom
1544 E Harmony Lakes Circle
Davie, FL 33324

6/26/, 2003

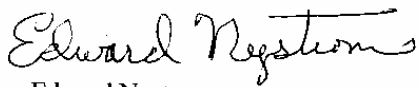
Town Council Members
Town Hall
6591 Orange Drive
Davie, FL 33314


*Re: Variance Application Relating to Pre-existing Deck and Gazebo at the Marker
Residence (located at 1554 E. Harmony Lakes Circle, Lot 195 of the Village at Harmony
Lakes SFH – Property ID 5041 18 10 1950)*

Dear Council Members:

We reside at 1544 E. Harmony Lakes Circle and next door to the Marker residence. Ms. Marker purchased the home next door, which has a deck and gazebo, installed by a prior owner. The gazebo and deck, while within her property boundaries, encroach slightly onto the rear setback. We have no objection to this variance application and support her efforts in this matter.

Sincerely,


Edward Nystrom


Jean Nystrom

HARMONY LAKES ESTATES ASSOCIATION, INC.
DAVIE, FLORIDA 33324

April 21, 2003

Town of Davie
Town Council Members
6591 Orange Drive
Davie, FL 33314

Re: Variance Application relating to gazebo/deck addition at Marker Residence (located at 1554 E. Harmony Lakes Circle, Lot 195 of The Village at Harmony Lakes, recorded in the public records of Broward County at Plat Book 131, Pg. 26)

Dear Council Members:

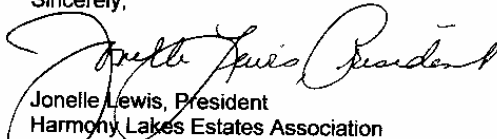
As President of Harmony Lakes Estates Association, I am writing to convey our Association's support for the variance request of Mr. and Mrs. Marker. The situation they find themselves in is not due to their negligence, but the negligence of the previous homeowner who installed this addition without proper town documentation. We addressed this matter with this owner, but before it was resolved, he sold the residence.

The investigation into remedying this situation leaves Mr. and Mrs. Marker with only one feasible option – the variance. We do not feel that they should be further financially encumbered due to the negligence of the previous owner. We have determined that since the variance request does not extend beyond the homeowner's property boundaries, there is no negative impact upon the common community property.

The addition as installed is consistent with the architectural guidelines currently established for our community, and the issuance of this variance will not be met with ACC conflict.

If I may be of any further assistance regarding this matter, please do not hesitate to call.

Sincerely,



Jonelle Lewis, President
Harmony Lakes Estates Association

cc: Mr. and Mrs. Marker



**VARIANCE
V 6-2-03
Zoning and Aerial Map**

Prepared By: rkm
Date Prepared: 7-22-03

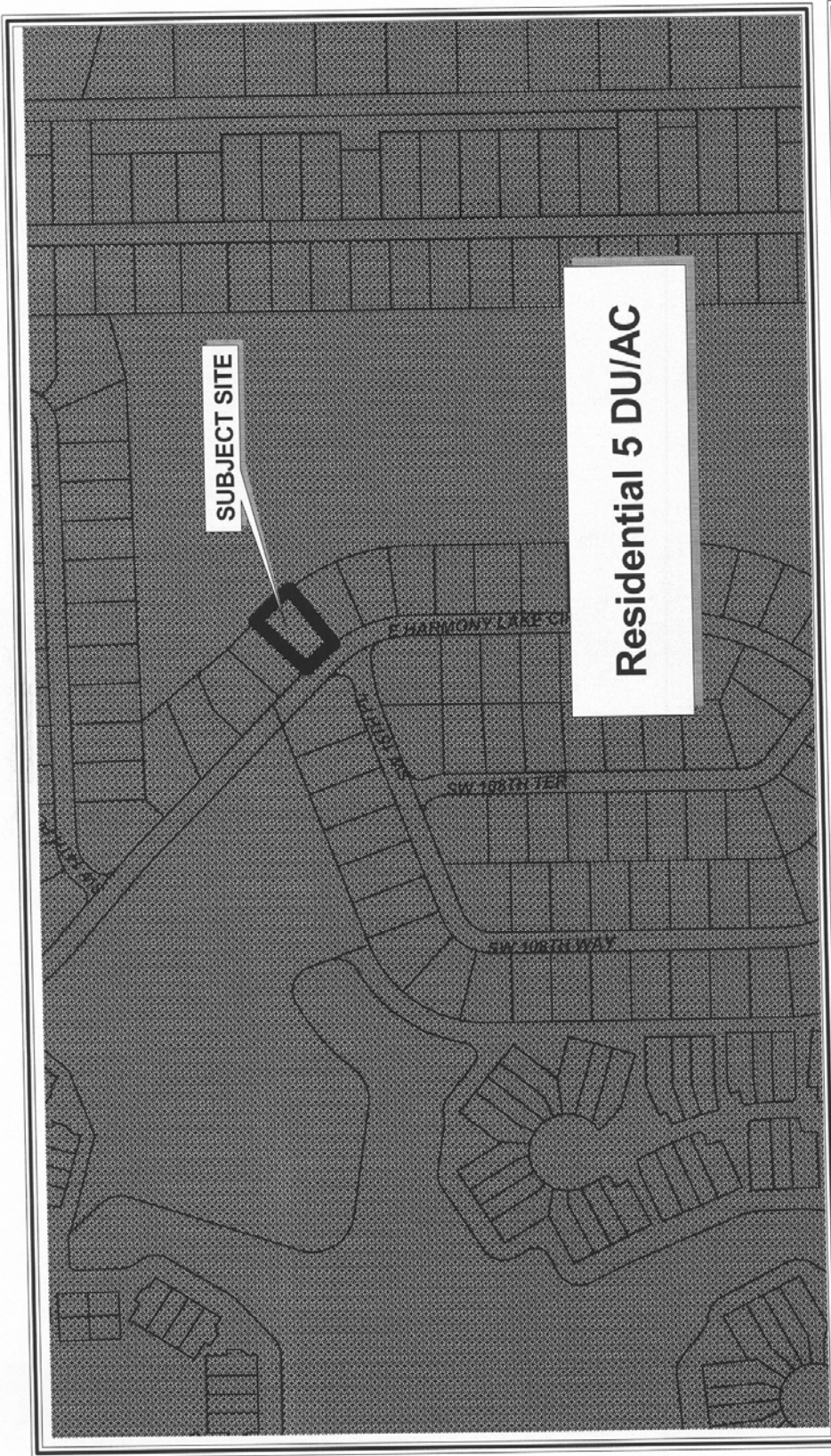


Date Flown:
12/31/00



200 0 200 400 Feet

Planning & Zoning Division - GIS



VARIANCE
V 6-2-03
Future Land Use Map

Prepared By: rkm
 Date Prepared: 7-22-03



Date Flown:
 12/31/00



200 0 200 400 Feet

Planning & Zoning Division - GIS